

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

LUCIANO F. PAONE,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Case No. 07-CV-2973-ADS-ARL

**PLAINTIFF'S NOTICE OF
COMBINED MOTIONS *IN LIMINE* AND *DAUBERT* MOTION**

Pursuant to ¶ V.B.c. of the Court's Individual Motion Practices and the Stipulated Pretrial Schedule (Dkt Nos. 174 and 175), Plaintiff Luciano F. Paone respectfully moves *in limine* and/or pursuant to the standards for admissibility of expert testimony under Fed. R. Evid. 702 set forth in *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 589 (1993) to preclude Defendant Microsoft Corporation from presenting argument, evidence and/or testimony at trial concerning certain issues. The grounds for this motion are set forth in the accompanying Memorandum of Law, the Declaration of Jon R. Carter, Esq., and the exhibits thereto, which are being filed concurrently herewith.

Dated: January 25, 2013

Respectfully submitted,



Kenneth R. Adamo (KA 6210)
Gianni L. Cutri (*pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle Street
Chicago, IL 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Benjamin A. Lasky (BL 5769)
Andrew G. Heinz (AH 2704)
Jon R. Carter (JC 1983)
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022-4675
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

Attorneys for Plaintiff Luciano F. Paone

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of January, 2013, a true and correct copy of the foregoing PLAINTIFF'S NOTICE OF COMBINED MOTIONS *IN LIMINE* AND *DAUBERT* MOTION was served by ECF and e-mail on counsel for Microsoft as follows:

Greg S. Zucker, Esq. (gzucker@westermanllp.com)
Westerman Ball Ederer Miller & Sharfstein, LLP
1201 RXR Plaza
Uniondale, NY 11556
(516) 622-9200

Dan K. Webb (dwebb@winston.com)
Ray Perkins (rperkins@winston.com)
WINSTON & STRAWN LLP
35 W. Wacker Drive
Chicago, IL 60601-9703
(312) 558-5600

Dale M. Heist, Esq. (heist@woodcock.com)
Daniel J. Goettle, Esq. (dgoettle@woodcock.com)
John F. Murphy (jmurphy@woodcock.com)
Woodcock Washburn LLP
2929 Arch St.
Philadelphia, PA 19104
(215) 568-3100

/s/ Jon R. Carter
Jon R. Carter (JC 1983)
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, New York 10022-4675
Telephone: (212) 446-4800
Facsimile: (212) 446-4900